

Practitioner's Document No.: 59930(47992)

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Nancy Smyth-Thompson, et al.

Application No.: 09/991,028

Group No.: 1615

Filed: November 20, 2001

Examiner: G. Kishore

For: NOVELL LIPOSOME COMPLEXES FOR...

☐ \*Patent No.: N/A

Issue Date: N/A

Reexamination Date: N/A

\*NOTE: Preferably also insert inventor's name and invention title.

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

TERMINAL DISCLAIMER TO OBVIATE  
A DOUBLE PATENTING REJECTION (37 C.F.R. SECTION 1.321(c))

Identification of Person(s) Making This Disclaimer

I, Gregory B. Butler, Ph.D., Esq.

(type or print names of all inventors or assigns or name of attorney signing disclaimer)

(a) represent that I am

☐ an inventor (applicant) of this invention.

CERTIFICATE OF MAILING/TRANSMISSION (37 C.F.R. SECTION 1.8(a))

I hereby certify that, on the date shown below, this correspondence is being:

MAILING

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☒ deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Signature

Donna R. Davis

(type or print name of person certifying)

Date:

OCTOBER 28, 2003

10/20/2003 BABRAHA1 00000051 041105 09991028

(Terminal Disclaimer to Obviate a Double Patenting Rejection--page 1 of 7)

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☐ an assignee of this invention.

**WARNING:** *"If the patent or patent application is assigned to an organization, such as a corporation, partnership, university, [g]overnment agency or similar entity, and the disclaimer is signed by the assignee, the assignee must comply with Section 3.73(b)." Notice of Oct. 15, 1993, 1156 O.G. 54-61 at 56, Section 1490, M.P.E.P., 7th Edition.*

☐ a representative authorized to sign on behalf of the assignee identified below.

☐ A statement under 37 C.F.R. Section 3.73(b) is attached.

**WARNING:** *See the above "WARNING".*

☒ the attorney of record for this invention.

**NOTE:** *The rules "permit an attorney or agent of record to sign a terminal disclaimer without the need to comply with Section 3.73(b)." Notice of Oct. 15, 1993, 1156 O.G. 54-61, at 56. See also Section 1490, M.P.E.P., 7th Edition.*

#### **IDENTITY OF ASSIGNEE AND TITLE OF DISCLAIMANT** (if applicable)

The assignee is

Name of assignee \_\_\_\_\_

Address of assignee \_\_\_\_\_

\_\_\_\_\_

Title of disclaimant authorized to sign on behalf of assignee \_\_\_\_\_

\_\_\_\_\_

#### **EXTENT OF DISCLAIMANT'S INTEREST**

The extent of the interest in this invention that the disclaimant owns is in:

☐ the whole of this invention.

☒ a sectional interest in this invention, as follows: Claims 1-17.

*(state the exact interest of the disclaimant)*

**RECORDAL OF ASSIGNMENT IN PTO**  
*(if applicable)*

☒ The assignment was recorded on October 15, 1999, in the parent case U.S.S.N. 09/242,190

Reel 010283  
Frame 0917

☐ Authorization for recordal of the assignment is separately attached.

☐ A separate ☐ "ASSIGNMENT (DOCUMENT) COVER SHEET" or  
☐ FORM PTO 1595 is also attached.

**ESTABLISHING RIGHT OF ASSIGNEE TO TAKE ACTION**  
*(if applicable)*

☐ Attached is a STATEMENT UNDER 37 C.F.R. Section 3.73(b) establishing the right of the assignee to take action in this case.

**DISCLAIMER**  
*(select one of the following)*

**(Provisional Obviousness-Type Double Patenting Rejection Over A Pending Application)**

Petitioner hereby disclaims, except as provided below, the terminal part of any patent granted on the instant application, which would extend beyond the expiration date of any patent granted on Application No. \_\_\_\_\_, filed on \_\_\_\_\_, as shortened by any terminal disclaimer. Petitioner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the above-listed application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors, or assigns.

In making the above disclaimer, disclaimant does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. Sections 154 to 156 and 173 of any patent granted on the application forming the basis of the double patenting rejection, namely, any patent granted on Application No. \_\_\_\_\_, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. Section 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to expiration of its full statutory term as presently shortened by any terminal disclaimer, except for the separation of legal title stated above.

**DISCLAIMER FEE (37 C.F.R. Section 1.20(d))**

- ☐ Other than a small entity--fee \$110.00
- ☐ Small entity--fee \$55.00
- ☐ Small entity statement attached
- ☐ Small entity statement already filed
- ☐ in patent application \_\_\_\_/\_\_\_\_ on (date)

**OR**

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Petitioner hereby disclaims, except as provided below, the terminal part of any patent granted on the instant application, which would extend beyond the expiration date of Patent No. US 6,413,544 B1 as presently shortened by any terminal disclaimer. Petitioner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the above-listed patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors, or assigns.

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**OR**

**(Provisional Obviousness-Type Double Patenting Rejection Over A Pending  
Application--Reexamination Proceeding)**

Petitioner hereby disclaims, except as provided below, the terminal part of any patent being reexamined, which would extend beyond the expiration date of any patent granted on Application No. \_\_\_\_/\_\_\_\_\_, filed on \_\_\_\_\_, as shortened by any terminal disclaimer. Petitioner hereby agrees that any reexamination certificate issued on the instant patent being reexamined shall be enforceable only for and during such period that it and any patent granted on the above-listed application are commonly owned. This agreement runs with any reexamination certificate issued on the instant patent granted and is binding upon the grantee, its successors, or assigns.

In making the above disclaimer, disclaimant does not disclaim the terminal part of any reissue certificate granted on the instant patent being reexamined that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. Sections 154 to 156 and 173 of any patent granted on the application forming the basis of the double patenting rejection, namely, any patent granted on Application No.: \_\_\_\_/\_\_\_\_\_, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. Section 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to expiration of its full statutory term as presently shortened by any terminal disclaimer, except for the separation of legal title stated above.

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  - ☐ Small entity statement already filed
    - ☐ in patent application \_\_\_\_/\_\_\_\_\_ on \_\_\_\_\_ (date)

OR

**(Provisional Obviousness-Type Double Patenting Rejection Over A Prior Patent--  
Reexamination Proceeding)**

Petitioner hereby disclaims, except as provided below, the terminal part of the patent being reexamined, which would extend beyond the expiration date of Patent No. \_\_\_\_\_ as presently shortened by any terminal disclaimer. Petitioner hereby agrees that the patent for which a reexamination certificate is issued as a result of this proceeding shall be enforceable only for and during such period that it and the above listed patent granted are commonly owned. This agreement runs with any reexamination certificate issued on the instant patent and is binding upon the grantee, its successors, or assigns.

In making the above disclaimer, disclaimant does not disclaim the terminal part of any reexamination certificate granted on the instant patent that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. Sections 154 to 156 and 173 of the patent forming the basis of the double patenting rejection, namely, Patent No.: \_\_\_\_\_, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. Section 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to expiration of its full statutory term as presently shortened by any terminal disclaimer, except for the separation of legal title stated above.

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(date)

**FEE PAYMENT**

[ ] Attached is a check in the sum of \$ \_\_\_\_\_.

[ ] Charge Account \_\_\_\_\_ for any fee deficiency.

[X] Charge Deposit Account ~~04-1105~~ the sum of \$110.00.  
A duplicate of this disclaimer is attached.

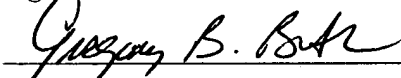
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\_\_\_\_\_  
**Signature of disclaimant**

  
\_\_\_\_\_  
**SIGNATURE OF PRACTITIONER**

Gregory B. Butler, Ph.D., Esq.  
*(type or print name of practitioner)*

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